

the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

“(2) MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.—The amendments made by subsection (c) [amending section 6662 of this title] shall apply to items with respect to transactions entered into after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(13) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(d)(13) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99-514, set out as a note under section 46 of this title.

Section 1531(b) of Pub. L. 99-514 provided that: “The amendment made by this section [amending this section] shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as amended by this section) interests in which are first offered for sale after December 31, 1986.”

EFFECTIVE DATE

Section 141(d) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and section 6707 of this title and renumbering former section 6111 as section 6112 of this title] shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as added by this section) any interest in which is first sold to any investor after August 31, 1984.

“(2) SUBSTANTIAL INVESTMENT TEST.—For purposes of determining whether any investment is a tax shelter by reason of section 6111(c)(1)(B)(iii) of such Code (as added by this section), only offers for sale after August 31, 1984, shall be taken into account.

“(3) FURNISHING OF SHELTER IDENTIFICATION NUMBER FOR INTERESTS SOLD BEFORE SEPTEMBER 1, 1984.—With respect to interests sold before September 1, 1984, any liability to act under paragraph (1) of section 6111(b) of such Code (as added by this section) which would (but for this sentence) arise before such date shall be deemed to arise on December 31, 1984.”

§ 6112. Material advisors of reportable transactions must keep lists of advisees, etc.

(a) In general

Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall (whether or not required to file a return under section 6111 with respect to such transaction) maintain (in such manner as the Secretary may by regulations prescribe) a list—

- (1) identifying each person with respect to whom such advisor acted as a material advisor with respect to such transaction, and
- (2) containing such other information as the Secretary may by regulations require.

(b) Special rules

(1) Availability for inspection; retention of information on list

Any person who is required to maintain a list under subsection (a) (or was required to

maintain a list under subsection (a) as in effect before the enactment of the American Jobs Creation Act of 2004)—

(A) shall make such list available to the Secretary for inspection upon written request by the Secretary, and

(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

(2) Lists which would be required to be maintained by 2 or more persons

The Secretary may prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list (or portion thereof), only 1 person shall be required to maintain such list (or portion).

(Added Pub. L. 98-369, div. A, title I, § 142(a), July 18, 1984, 98 Stat. 681; amended Pub. L. 108-357, title VIII, § 815(b)(2), (3), Oct. 22, 2004, 118 Stat. 1582; Pub. L. 109-135, title IV, § 403(z), Dec. 21, 2005, 119 Stat. 2629.)

REFERENCES IN TEXT

Enactment of the American Jobs Creation Act of 2004, referred to in subsec. (b)(1), means enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

PRIOR PROVISIONS

A prior section 6112 was renumbered 6116 of this title.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109-135, in introductory provisions, inserted “(or was required to maintain a list under subsection (a) as in effect before the enactment of the American Jobs Creation Act of 2004)” after “a list under subsection (a)”.

2004—Pub. L. 108-357, § 815(b)(2), substituted “Material advisors of reportable transactions must keep lists of advisees, etc.” for “Organizers and sellers of potentially abusive tax shelters must keep lists of investors” in section catchline.

Subsec. (a). Pub. L. 108-357, § 815(b)(2), reenacted heading without change and amended text of subsec. (a) generally, substituting provisions requiring each material advisor to maintain a list identifying each person with respect to whom such advisor acted as a material advisor with respect to a reportable transaction and containing such other information as required by regulations, for provisions requiring any person who organized any potentially abusive tax shelter or sold any interest in such a shelter to maintain a list identifying each person who had been sold an interest in such shelter and containing such other information as required by regulations.

Subsec. (b). Pub. L. 108-357, § 815(b)(2), (3)(A), redesignated subsec. (c) as (b) and struck out former subsec. (b), which defined “potentially abusive tax shelter” for purposes of this section.

Subsec. (b)(1)(A). Pub. L. 108-357, § 815(b)(3)(B), inserted “written” before “request”.

Subsec. (b)(2). Pub. L. 108-357, § 815(b)(3)(C), substituted “may prescribe” for “shall prescribe”.

Subsec. (c). Pub. L. 108-357, § 815(b)(3)(A), redesignated subsec. (c) as (b).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to transactions with respect to which material aid, assistance,

or advice referred to in section 6111(b)(1)(A)(i) of this title is provided after Oct. 22, 2004, see section 815(c) of Pub. L. 108-357, set out as a note under section 6111 of this title.

EFFECTIVE DATE

Section 142(d) of Pub. L. 98-369 provided that: “The amendments made by this section [enacting this section and section 6708 of this title and renumbering former section 6112 as section 6113 of this title] shall apply to any interest which is first sold to any investor after August 31, 1984.”

§ 6113. Disclosure of nondeductibility of contributions

(a) General rule

Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

(b) Organizations to which section applies

(1) In general

Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

(B) is a political organization (as defined in section 527(e)), or

(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

(2) Exception for small organizations

(A) Annual gross receipts do not exceed \$100,000

This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than \$100,000.

(B) Multiple organization rule

The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.

(3) Special rule for certain fraternal organizations

For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

(c) Fundraising solicitation

For purposes of this section—

(1) In general

Except as provided in paragraph (2), the term “fundraising solicitation” means any so-

licitation of contributions or gifts which is made—

(A) in written or printed form,

(B) by television or radio, or

(C) by telephone.

(2) Exception for certain letters or calls

The term “fundraising solicitation” shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year.

(Added Pub. L. 100-203, title X, §10701(a), Dec. 22, 1987, 101 Stat. 1330-457.)

PRIOR PROVISIONS

A prior section 6113 was renumbered 6116 of this title.

EFFECTIVE DATE

Section 10701(d) of Pub. L. 100-203 provided that: “The amendments made by this section [enacting this section and section 6710 of this title and renumbering former section 6113 as section 6114 of this title] shall apply to solicitations after January 31, 1988.”

§ 6114. Treaty-based return positions

(a) In general

Each taxpayer who, with respect to any tax imposed by this title, takes the position that a treaty of the United States overrules (or otherwise modifies) an internal revenue law of the United States shall disclose (in such manner as the Secretary may prescribe) such position—

(1) on the return of tax for such tax (or any statement attached to such return), or

(2) if no return of tax is required to be filed, in such form as the Secretary may prescribe.

(b) Waiver authority

The Secretary may waive the requirements of subsection (a) with respect to classes of cases for which the Secretary determines that the waiver will not impede the assessment and collection of tax.

(Added Pub. L. 100-647, title I, §1012(aa)(5)(A), Nov. 10, 1988, 102 Stat. 3532; amended Pub. L. 101-508, title XI, §11702(c), Nov. 5, 1990, 104 Stat. 1388-514.)

PRIOR PROVISIONS

A prior section 6114 was renumbered 6116 of this title.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-508 struck out “by regulations” before “waive the requirements”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 11702(j) of Pub. L. 101-508, set out as a note under section 59 of this title.

EFFECTIVE DATE

Section 1012(aa)(5)(D) of Pub. L. 100-647 provided that: “The amendments made by this paragraph [enacting this section and section 6712 of this title and renumbering former section 6114 as section 6115 of this title] shall apply to taxable periods the due date for filing returns for which (without extension) occurs after December 31, 1988.”